

## TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the proposed action in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on December 3, 2007.

The board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board's office not later than 5:00 p.m. on November 19, 2007.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the action substantially as described below or may modify such action if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified action will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the action.

Authority and Reference: Pursuant to the authority vested by section 2570.20 of the Business and Professions Code, and to implement, interpret or make specific section 2570.20, the Board is proposing revising Division 39, Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law states that a violation of any ethical standard of practice constitutes grounds for disciplinary action. The ethical standards of practice are outlined in Section 4170 and include subsection (g) requiring occupational therapy practitioners report known acts of unprofessional conduct to the Board.

The proposed language amends 4170(g) to require that occupational therapy practitioners report to the Board *acts constituting grounds for discipline* as defined in Business and Professions Code (BPC) Section 2570.28. Currently, 4170(g) only requires that practitioners report *unprofessional conduct* to the Board. BPC section 2570.28(a) defines *unprofessional conduct* as: (1) incompetence or gross negligence, (2) repeated similar negligent acts, (3) a conviction of practicing medicine without a license, (4) the use of advertising that violates Section 17500, and (5) disciplinary action taken by another state. Using the phrase *acts constituting grounds for discipline* in lieu of *unprofessional conduct* would broaden the reportable violations to more appropriately include all subsections listed in BPC section 2570.28. Additional violations that occupational therapy practitioners would be required to report to the Board would include, but not be limited to, impersonating a licensed practitioner, allowing another person to use a license, committing fraudulent acts, committing any action punishable as a sexually related crime, using excessive force upon a patient, falsifying a patient record, and failing to maintain patient confidentiality.

## FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the adoption of this regulation would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

## EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect small businesses because the regulation does not regulate small businesses, does not require reports or any other compliance activities.

## CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may request a hearing to present statements or arguments orally or in writing relevant to the above determinations, if requested within 15 days of the close of the written comment period.

#### TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons that sets forth the reasons for the proposed action and has all the information upon which the proposal is based.

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained from our website as listed below upon written request from the contact person listed below.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Board's website as listed below.

#### CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

April Freeman  
California Board of Occupational Therapy  
444 North Third Street, Suite 410  
Sacramento, CA 95811  
(916) 322-3278  
(916) 445-6167 (FAX)  
cbot@dca.ca.gov

The backup contact person is:

Heather Martin  
California Board of Occupational Therapy  
444 North Third Street, Suite 410  
Sacramento, CA 95811  
(916) 322-3394  
(916) 445-6167 (FAX)  
cbot@dca.ca.gov

Website Access: All materials regarding this proposal can be found on-line at **[www.bot.ca.gov](http://www.bot.ca.gov) > Laws and Regulations > Proposed Regulations.**